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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/632,315 | 08/04/2000 | Hans Dehli | 36911/SAH/H362 | 1692 |

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| EXAMINER | |
|---|---|
| DEMILLE, DANTON D | |
| ART UNIT | PAPER NUMBER |
| 3764 | 13 |

DATE MAILED: 04/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 09/632,315 | DEHLI, HANS | |
| | Examiner | Art Unit | |
| | Danton DeMille | 3764 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *03 February 2003* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1,3-14,37-39,46 and 48* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *1,3 and 4* is/are allowed.

6)☒ Claim(s) *5-14,37-39,46 and 48* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

## DETAILED ACTION

### *Specification*

1. The disclosure remains objected to because of the following informalities: The C-shaped guide rail doesn't appear to be adequately disclosed in the drawings.

2. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

3. **Claims 5 and 48 remain rejected under 35 U.S.C. 102(b) as being clearly anticipated by Goodman.** As broadly recited, Goodman teaches a first raceway on the upper surface of rails 22, 23 and a second opposing raceway on the bottom surface of the rails. Biasing wheels 66 and 67 act in opposition to the guide wheels to maintain the guide wheels within the first raceway. Goodman teaches that "[l]ower wheels 66 and 67 prevent the carriage from vibrating off rails 22 and 23." Applicant is claiming a "biasing member" that centers the guide wheel within the raceway and later defines it as the biasing wheel. The biasing wheel forces the guide wheels down into the bottom of the V-shaped rails. It would appear that the true means for biasing the guide wheels toward the center of the guide rails in the V-shape. The guide wheels merely force the guide wheels downwardly. The biasing wheels provide a force in a direction opposite to the guide wheels. The biasing wheels force the guide wheels downwardly against the guide rails. It is the V-shape that centers the guide wheels within the raceway. That is the very same purpose of the lower wheels 66, 67 of Goodman. They apply a force in a direction opposite to the guide wheels to force the guide wheels against the raceway. Just as applicant's V-shape guide rails center the guide wheels within the raceway so does the vertical walls on opposite sides of raceway 22, 23. Just as applicant's biasing wheels 72 are located in-between the guide wheels 60 as shown in figure 3 so are biasing wheels 66, 67 located in-between guide wheels 72, 73 as

shown in figure 4 of Goodman. The biasing wheels of Goodman appear to anticipate the intended purpose and function of applicant's biasing wheels.

4. **Claim 46 remains rejected under 35 U.S.C. 102(b) as being clearly anticipated by Ookawa et al.** As can be seen in figure 1, rail 14 is C-shaped and therefore comprehends the claims. Ookawa also shows in figure 3 how the massaging members are constrained to move in a sideward oscillating motion because it is mounted at an angle.

***Claim Rejections - 35 USC § 103***

5. **Claims 6, 8-10, 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goodman in view of Haley.** Goodman teaches a massaging apparatus comprising at least one guide rail 22, 23, guide wheels 72, 73 and carriage assembly. Goodman may not teach a V-shaped raceway however, Haley teaches such a convention. It would have been obvious to one of ordinary skill in the art to modify Goodman to shape the wheels and guide rails V-shaped as taught by Haley as an obvious equivalent alternative and to also prevent side sway along the guide rail.

6. **Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goodman.** Applicant's second raceway 54 is merely an upper surface of the guide rail and the first raceway 52 is a lower surface of the same guide rail. Both raceways are merely different surfaces of the same guide rail. Goodman's second raceway is merely a different surface of the same guide rail as well. The second raceway is located on a bottom surface of guide rail and the first raceway is located at a top surface of the guide rail. It would appear Goodman also anticipates the claimed invention however, it would have been obvious to provide a second raceway spaced from the first raceway. Such is well within the realm of the artisan of ordinary skill should the location of the second wheels 66, 67 be required to be spaced from the rails 22, 23. It would have been

obvious to one of ordinary skill in the art to modify Goodman to provide a second raceway spaced from the first, should the location of the second wheels 66, 67 preclude being located underneath the guide wheels

7. **Claims 11-13 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goodman in view of Bach et al.** There is no unobviousness to the shape of the guide or biasing wheels. Bach teaches wheels having a large diameter section and a smaller diameter section. The smaller diameter section includes an o-ring 25 fitted within an annular groove formed in the circumference of the smaller diameter section. It would have been obvious to one of ordinary skill in the art to modify Goodman to shape the wheels as desired such as taught by Bach to help maintain the wheels within the guide rails by including the larger diameter portion and to include the rubber o-ring to soften the vibrations and provide added traction.

***Response to Arguments***

8. Applicant's arguments filed 3 February 2003 have been fully considered but they are not persuasive. While it is believed that the biasing wheels act in opposition to the guide wheels to force and maintain the guide wheels into engagement with the guide rails, it is not believed that the biasing wheels also provide the "centering" function argued. The centering function is provided by the V-shape of the guide rail. The V-shape is claimed separately. Because the independent claims do not require the V-shaped guide rail, applicant comprehends something other than V-shaped guide rails such as the flat guide rails as taught by Goodman. Applicant's true "biasing member" that centers the guide wheel to the center of the guide rail is the V-shape of the guide rail not the biasing wheels. To any extent applicants biasing wheels center the guide wheels within the raceway so does the biasing wheels 66, 67 of Goodman centers the guide wheels 71-74 within the raceway of the rails 22, 23 by preventing the upper wheels 71-74 from

coming out of the raceway due to vibration. Just as applicant's V-shaped guide rail "center" the guide wheels within the raceway so do the vertical side walls of the guide rail of Goodman. Any lateral travel of the guide wheels of Goodman would be met by the vertical walls of the guide rail. Therefore the true scope of the independent claims is met by Goodman.

9. Regarding Bach, it is not clear how much weight can be given the arguments that Bach fails to teach biasing wheels that provide a force which centers a guide wheel within a raceway. Bach is not cited to teach that feature. Goodman already anticipates this feature. Bach is merely cited to teach the specific details of the wheels. Goodman appears to teach wheels that have a smaller diameter section and a larger diameter section however, such details are not provided because such is well within the realm of the artisan of ordinary skill. Bach merely exemplifies the convention of using a smaller diameter section that includes a groove for supporting a larger rubber diameter portion. In the art of designing wheels for guide rails Bach is cited to teach the convention of including an outer ring of rubber to provide a high degree of traction force along with vibration dampening. Such would have been an obvious provision when designing guide wheels as taught by Bach.

10. Regarding claim 7, just as applicant's second raceway is merely a different surface of the same guide rail so is the second raceway of Goodman. Applicant's second raceway is a top surface of the guide rail and the first raceway is a bottom surface of the guide rail. Goodman's second raceway is a bottom surface of the guide rail and the first raceway is the top surface of the guide rail. It is not clear how the claim defines over Goodman. To any extent it does, it would have been obvious to have the biasing wheels spaced from the guide wheels on a different surface of the guide rail such as the top surface of the guide rail above the guide wheels. Perhaps movement of the carriage would impact the biasing wheels if the biasing wheels are located

underneath the guide wheels. Locating the biasing wheels on a different surface would still provide the same function just located at a different location.

11. Regarding claim 46, Ookawa also teaches the massaging members 86 are constrained to move in an oscillating sideward motion because it is mounted at an angle as shown in figure 3 and provides a horizontal oscillation as well as a vertical oscillation, column 5, lines 46-50.

***Conclusion***

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

13. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

ddd
1 April, 2003
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Danton DeMille
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Art Unit 3764